

REMARKS

Reconsideration of this application in view of the above amendments and following remarks is respectfully requested. Claims 1-9 have been cancelled. Claim 10 is new. Support for new claim 10 may be found throughout the specification and related drawings; more specifically, support may be found, for example, in the specification at col. 1, lines 6-10, col. 2, lines 14-27, and col. 4, lines 21-27. No new matter has been added.

As way of background, the parent application to this application was filed on June 11, 2002 and sought a broadening reissue of U.S. Patent No. 6,253,515 because this patent was deemed to be partly inoperative by reason of the patentee claiming less than he had a right to claim. The broadening reissue application was partially successful in that several new claims were examined and subsequently allowed. Regrettably, the several new claims of the parent broadening reissue application do not fully encompass all of the subject matter that the patentee has a right to claim. Accordingly, this continuation application seeks to obtain allowance of new claim 10, which claim is more fully commensurate with the true scope of the patentee's invention.

It is respectfully submitted that a broadened claim may be presented within two years from the grant of the original patent in a reissue application. In addition, a broadened claim may be presented *after* two years from the grant of the original patent in a broadening reissue which was filed *within* two years from the grant. Specifically, where any intent to broaden is indicated in the reissue application within the two years from the patent grant, a broadened claim may subsequently be presented in the reissue after the two year period. Finally, if intent to broaden is indicated in a parent reissue application within the two years, a broadened claim may be presented in a continuing reissue application after the two year period. *See In re Doll*, 419 F.2d

925, 928, 164 USPQ 218, 220 (CCPA 1970) (If the reissue application is timely filed within two years of the original patent grant and the applicant indicates in the oath or declaration that the claims will be broadened, then applicant may subsequently broaden the claims even if the additional broadening occurs beyond the two year limit).

In this present application, the applicant is now seeking allowance of subject matter that corresponds to allowed claim 10 of the parent reissue application (*i.e.* U.S. Application No. 10/166,190) but which no longer requires limitations to a “caulking groove.” In short, the recited limitations associated with the caulking groove feature of previously allowed claim 10 are unnecessary for purposes of establishing patentability. More specifically, and in reviewing the parent continuation-in-part application that eventually issued as U.S. Patent No. 6,253,515, it is readily apparent that original claim 3 was allowed because “[t]he prior art of record fails to anticipate or render obvious the claimed concrete panels system including a plurality of panels attached to a vertical wall in which the apex of the V-joints is located in the plane of the rear surface of the panels (claim 3)” (*see* Office Action dated June 13, 2000, page 3, last paragraph under the “Allowable Subject Matter” heading). Original claim 3 of the parent continuation-in-part application together with its independent base claim 1 read as follows:

1. A concrete panel system comprising a plurality of concrete panels arranged in side-by-side fashion on a substantially vertical supporting wall, each of said panels comprising a rectangular body having a front surface and beveled side edges, said side edges forming an angle of between eighty-five and ninety degrees with said rear surface, and a caulking groove connecting each of said beveled side edges with said front face, the side edges of adjacent panels forming a V-joint therebetween, and a flexible sealant material in a portion of said caulking grooves of adjacent panels and a portion of said V-joint for providing a seal between adjacent panels.

3. A concrete panel system as in Claim 1 and wherein the apex of said V-joint lies in the plane of said rear surface upon installation of said panels.

Importantly, it appears that original claim 3 together with its independent base claim 1 eventually issued as claim 1 of U.S. Patent No. 6,253,515, which claim 1 reads as follows:

1. A concrete panel system comprising a plurality of concrete panels arranged in side-by-side fashion on a substantially vertical supporting wall, each of said panels comprising in turn:
  - a rectangular body having a front surface and a rear surface and beveled side edges, said side edges forming an angle of between eighty-five and ninety degrees with said rear surface;
  - a caulking groove connecting each of said beveled side edges with said front face, the side edges of adjacent panels forming a V-joint therebetween, and,
    - a flexible sealant material in a portion of said caulking grooves of adjacent panels and a portion of said V-joint for providing a seal between adjacent panels,
    - and wherein said V-joint widens from said rear surface toward said front surface
  - and wherein the apex of said V-joint lies in the plane of said rear surface upon installation of said panels.

As noted above, the broadening reissue of U.S. Patent No. 6,253,515 was sought because, among other reasons, the patentee was claiming less than he had a right to claim in view of the claim limitations that recite "said side edges forming an angle of between eighty-five and ninety degrees with said rear surface" (*emphasis added*). These claim limitations were successfully deleted during prosecution of the parent reissue application. More specifically, allowed claim 10 of the parent reissue application reads as follows:

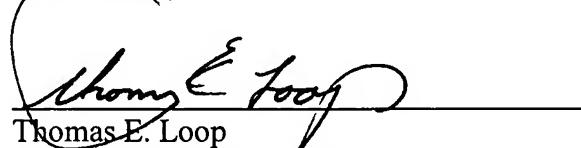
10. A concrete panel system comprising a plurality of concrete panels arranged in side-by-side fashion on a substantially vertical supporting wall, each said panel having:
  - a rectangular panel body having a front surface and a rear surface and beveled side edges, such that the side edges of adjacent panels form a V-joint therebetween, said V-joint having its apex at the rear surfaces of the panels upon installation of the panels;
  - a caulking groove connecting each beveled side edge with said front surface; and
  - a flexible sealant material in portions of the caulking grooves of adjacent panels and said V-joints, for providing a seal between adjacent panels.

Regrettably, allowed claim 10 of the parent reissue application is not fully commensurate with the true scope of the applicant's invention because allowed claim 10 unnecessarily recites limitations to "a caulking groove." These limitations are not necessary to establish patentability and, therefore, have been deleted. Indeed, a careful review of prior art of record and of the newly identified prior art set forth in the accompanying Information Disclosure Statement clearly indicates that new claim 10 of this application is patentable for the same reasons that original claim 3 of parent continuation-in-part application was deemed to be allowable. More specifically, the prior art fails to anticipate or render obvious concrete panel systems that include a plurality of panels attached to a vertical wall in which the apex of the V-joints is located in the plane of the rear surface of the panels.

A good faith effort has been made to place this application in condition for allowance and a Notice of Allowance is earnestly solicited. If however, any further matter requires attention prior to allowance, the Examiner is respectfully requested to contact the undersigned attorney at (206) 381-3100 to resolve the same.

Respectfully submitted,

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